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Nos. 35, 136

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In the Supreme Court of the United States

OCTOBER TERM, 1951

FRANK CARLSON; MIRIAM CHRISTINE STEVENSON, DAVID HYUN, AND HARRY CARLISLE, PETITIONERS

v.

HERMAN R. LANDON, DISTRICT DIRECTOR OF IMMIGRATION AND NATURALIZATION SERVICE, UNITED STATES DEPARTMENT OF JUSTICE

JAMES W. BUTTERFIELD, DIRECTOR OF IMMIGRATION AND NATURALIZATION SERVICE, DETROIT, MICHIGAN, PETITIONER

v.

JOHN ZIDOK

ON WRITS OF CERTIORARI TO THE UNITED STATES COURTS OF APPEALS FOR THE NINTH AND SIXTH CIRCUITS

SUPPLEMENTAL MEMORANDUM FOR THE RESPONDENT IN NO. 35 AND FOR THE PETITIONER IN NO. 136

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1. During the argument of the above cases Mr. Justice Black requested a reference to the statutory

authority under which the Attorney General had delegated his authority under 8 U.S.C. 156(a) to determine whether aliens in deportation proceedings should be admitted to bail. The Chief Justice directed that a memorandum be submitted covering this point.

Section 20(a) of the Immigration Act of 1917, as amended, (64 Stat. 1010; 8 U.S.C., Supp. IV, 156(a)), vests in the Attorney General the discretion to decide whether aliens subject to deportation proceedings shall be continued in custody, released under bond, or released on conditional parole. This designation of the Attorney General as the repository of authority is consistent with the pattern generally followed throughout the immigration laws. In prescribing duties and responsibilities under the immigration laws, the statutes generally provide that such duties and responsibilities shall be performed by the Attorney General. Indeed, the diverse provisions of Sections 19 and 20 of the Immigration Act of 1917, as amended, 8 U.S.C. (1946 ed. and Supp. IV) 155 and 156, relating to the deportation process invariably specify that authority shall be exercised by the Attorney General.

It is manifest that Congress did not contemplate that the Attorney General would himself discharge each of his statutory duties in thousands of deportation cases. The Attorney General must act, of course, through subordinate officers. Section 37(a)

of the Alien Registration Act of 1940, 54 Stat. 670, 675, 8 U.S.C. 458(a), specifically authorized such delegation by providing:

> The powers conferred upon the Attorney General by this Act and all other powers of the Attorney General relating to the administration of the Immigration and Naturalization Service may be exercised by the Attorney General through such officers of the Department of Justice, including officers of the Immigration and Naturalization Service, attorneys, special attorneys, and special assistants to the Attorney General, as he may designate specifically for such purposes.

Regulations implementing this statute and delegating to the Commissioner of Immigration and Naturalization the Attorney General's powers under the immigration laws were issued as 8 C.F.R., 1943 Supp., 90.1 as follows:

> Under the general direction of the Attorney General, the Commissioner of Immigration and Naturalization (hereinafter called the Commissioner) shall supervise and direct the administration of the Immigration and Naturalization Service and, subject to the limitations of other provisions of this part, shall have authority to exercise all powers of the Attorney General relating to the administration of that Service and the administration of the immigration, nationality, and all other laws administered by that Service and shall designate such officers of the Service as he may

> select, with the approval of the Attorney General, to exercise any power or authority of the Attorney General in the administration of any designated specific provision of such laws. * * *[1]

In addition, the President's Reorganization Plan No. 2 of 1950, 15 F. R. 3173, 5 U.S.C., Supp. IV, following section 133z-15, which became effective May 24, 1950, directs in section 1 that:

> (a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Attorney General all functions of all other officers of the Department of Justice and all functions of all agencies and employees of such Department.

Section 2 of this Plan empowers the Attorney General to direct "the performance by any other officer, or by any agency or employee, of the Department of Justice of any function of the Attorney General * * *".

On May 24 and June 6, 1950, the Attorney General, acting pursuant to the authority in Reorganization Plan No. 2, issued Supplements No. 42 and No. 44 of Department of Justice Order No. 3732, which confirmed previous delegations of authority to officers of the Department of Justice. Paragraph 4 of this amended Order directs that:

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[1] Although the codification of section 90.1 in 8 C.F.R. was discontinued November 16, 1948, 13 F.R. 6760, that regulation has not been revoked. Moreover, its terms are confirmed and restated in Notice No. 1, 11 F.R. 177A-110-114, Section 1.42, and in Notice 90, Section 90.1, 12 F.R. 4781, 13 F.R. 6760.

> Except as hereinbefore provided, all functions, duties, powers, and authority heretofore vested in any officer, agency, or employee of the Department of Justice, by delegation or otherwise, are delegated to, and shall continue to be vested in, such officer, agency, or employee.

Thus, the Attorney General's powers under the immigration laws, previously delegated to the Commissioner of Immigration and Naturalization, were revested in the Attorney General under Reorganization Plan No. 2 and were re-delegated to the Commissioner of Immigration and Naturalization under Supplements No. 42 and 44 to Department of Justice Order No. 3732.

2. At the conclusion of the argument, Mr. Justice Frankfurter requested a list of pending deportation cases involving subversive charges, showing the bail or detention status prior to the Internal Security Act of 1950 and such status after the enactment of that Act. Such a list has been prepared by the Immigration and Naturalization Service and is appended.[2]

Respectfully submitted,

PHILIP B. PERLMAN,
Solicitor General.

DECEMBER, 1951.

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[2] The delay in the filing of the memorandum is due to the fact that the material contained in the list had to be collected from the various districts of the Immigration Service.

Pending Deportation Cases Involving Subvers

(1) Current deportation proceedings involving charges under the A

September 23

Immigration district	Subject
Philadelphia	Dora Coleman
	Abraham Davis
	Frank Hellman
	Carl Herman
	Helen Herman
	Luigi Mascitti
	Josel Sandler
	Orlando Valeri
	Teresa Horvath
	Zdena Peach
	Stefano Petrola
	Mike Puchacz
	Joseph Ptasienski, Jr.
	Andrew Spehar
	George Radatovich
	Vincent Kemenovich
Miami	Sven Antonious Steffner
Kansas City	Philippe E. L. Roelants
	Bertha P. Roelants
	Spiridon Constantine
	Antonia Sentner
Seattle	Olov Edwin Okerstrom
	John L. Stenson
	Hamish Mackay
	Carolina Halverson
	Casimiro Absolar
	Hazel Wolfe

sive Charges—Bail or Detention Status

et of October 16, 1918, as amended, which were pending on
, 1950

Bail or detention status—9/23/50	Change in such status after 9/23/50
$4,000	No change
$1,000	No change
2,000	No change
500	No change
Parole	No change
2,000	No change
500	No change
1,000	No change
Parole	No change
1,000	No change
2,000	No change
2,000	No change
1,000	No change
1,000	No change
500 (court bond)	No change
5,000	Detained 10/22/50; released 11/3/50 $10,000 court bond
500	No change
1,000	No change
1,000	No change
1,000	No change
2,000	Detained 10/22/50; released 11/15/50 on $2,000 court bond
500	No change
1,000	No change
1,000	No change
1,000	No change
1,000	No change
500	No change

	Jurij Luckman	500	No change
	Heinrich Pahls	On own recognizance	No change
	Gene Cabigas	Warrant of Arrest unserved as of 9/23/50	Corditional parole since service of warrant
	George Dumlao	1,000	Bond canceled 4/2/51; on own recognizance
	Ernesto Mangaoang	5,000	Detained 10/22/50; released 1/4/51 under $5,000 court bond
	Boris Sassieff	500	Detained 10/22/50 without bond; released 12/1/50 under $500 court bond
	Cecil Jay	1,000	Detained 10/24/50; released $1,000 court bond.
	Jose Prudencio	1,000	No change
	Mogomet Gergieff	1,000	No change
	James Cryan	On recognizance	No change
	Ponce Torres	1,000	No change
	Christ Mensalvas	4,000	Detained 10/24/50; released 10/27/50 under $5,000 bond pursuant to court order
	Charles R. Kohler	1,000	No change
	Julius Blichfeldt	Own recognizance	No change
San Francisco	Jose A. Ferreiro	Conditional parole	No change
	Krishna Chandra	2,000	No change
	James George Manouskos	1,000	No change
	Nota Klopper	1,000	Bond increased to $5,000
	Ernest Otto Fuchs	5,000	Detained 10/21/50; released 10/26/50 $5,000 bond; July 1951 in custody US Marshal—violation Smith Act, transferred to LA and in custody there
	Nat Yanish	5,000	Detained 10/22/50; released 11/26/50 $5,000 court bond

Immigration district	Subject	Bail or detention status—9/23/50	after 9/23/50 Change in such status
	William Heikkila	5,000	Detained 10/22/50; released 11/26/50 $5,000 court bond
San Antonio	John Greenberg	Paroled	No change
	John Butt Crewe	2,000	No change
	Ada Violet Crewe	2,000	No change
	Manuel Pizarro Alcayaga	1,000	No change
	Jose Estrada Castillo	1,000	10/23/50 held without bail; 10/28/50 released $1,000 bail by court order
El Paso	Joseph George Strecker	Conditional parole	No change
Los Angeles	Modesto Bagay	1,000	No change
	Joseph Boross	2,000	No change
	Harry Carlisle	5,000	Detained 10/21/50; $5,000 court bond 5/8/51
	Francisco Espinoza Corona	4,000	No change
	Jaroslav Dmytryk	2,000	No change
	Zusman Fierstien	500	No change
	Robert Norberg Galvan	1,000	No change
	Zdena Hernandez	1,000	No change
	David Hyun	2,000	Detained 10/21/50; court bond $5,000 5/8/51
	Alfred Isakowitsch	500 and parole	No change
	Josef Lubej	4,000	No change
	Alice Orans	1,000	No change
	Esther Sazer	5,000	No change
	Jacob Schneider	Parole	No change
	Solomon Skolnick (Frank Carlson)	1,000	Detained 10/21/50; Court bond $5,000 5/8/51
	Hsue Shen Tsien	15,000	No change
	Miriam Stevenson	2,000	Detained 10/24/50; released court bond $5,000 5/8/51
Boston	Jose Garcia	$500	No change

	Iscz Aldifcho or Aldischo	2,000	No change
	Ivan Nabsczka	1,000	No change
	Freda Betta Swerdlow	2,000	No change
	Demetry Timoshuk	1,000	No change
	George Azorian	1,000	No change
	Eulalia Figueirido	Parole	No change
	Hans Mikhelsen	2,000	No change
	Guicomo Quatrone	1,000	No change
	Karl Latva	2,000	No change
Buffalo	Steve Avramovich	1,000	No change
	Thomas Wilfred Cromie	Conditional parole	No change
	Heinrich Emile Dumeier	Conditional parole	No change
	Pal Feldman	500	No change
	Morris Jaffa	1,000	No change
	Joseph Lukas	1,000	Detained 10/24/50; released 11/13/50 on $1,000 court bond.
	Stefan Markiwicz	Conditional parole	No change
	Franz Frederick Daniel August Meyer	Conditional parole	No change
	Leon Nicoloff	1,000	No change
	Feodos Nikulchenok	Conditional parole	No change
	Victor Romond	1,000	No change
	David Schlossberg	4,000	Detained 10/24/50; released 11/13/50 on $4,000 court bond.
	Viasire Statevich	Confined mental institution.	No change
	Carl Ragnar Frederick Videll	Conditional parole	No change
Detroit	Bertha Barker	2,000	No change
	James Barker	2,000	No change
	Agnes Ann Edgar	Paroled	No change
	Allen Edgar	Paroled	No change
	Rushidi Emin	1,500	No change
	Jacob Fahlman	1,000	No change

Immigration district	Subject	Bail or detention status—9/23/50	Change in such status after 9/23/50
	Anna Ganley	5,000	Detained 8/7/51; released 8/8/51 on $5,000 court bond.
	William Gava	500	No change
	Mary Grosman	1,000	No change
	Katherine Margaret Hyndman	1,000	No change
	Joseph Knerlev	1,000	No change
	Anton Koshewoy	Paroled	No change
	Marko Kosta	500	Detained 8/3/51; released 8/8/51 on $500 court bond.
	Marion Koziel	Paroled	No change
	Maria Kristalsky	2,000	No change
	William Kruchay	1,000	No change
	James Elwood Mackay	2,000	Detained 10/23/50; released 11/7/50 on $2,000 court bond.
	Louis Kuzmanov	Paroled	No change
	John Mastrandrea	1,000	Detained 8/3/51; released 8/9/51; $1,000 court bond.
	Waino John Mykannen	1,000	No change
	Angelo Pagotto	500	No change
	Antonio Papadimitriou	Paroled	No change
	James Papandreau	2,000	Detained 10/24/50; released 11/6/50 on $2,000 court bond.
	Alex Pechen	Paroled	No change
	Nick Poleschuk	1,000	No change
	John Pope	1,000	No change
	Mike Pope	1,000	No change
	Blaga Popravska	Paroled	Detained 8/3/51; released 8/7/51 on $500 court bond.
	Louis Ragni	Paroled	No change
	John Rogach	1,000	No change

	Fritz Karl Rust	2,000	Detained 8/8/51; released 8/8/51 on $2,000 court bond.
	Stephan Singler	500	No change
	Fred Wagner	Paroled	No change
	John Zydok	2,000	Detained 10/23/50; released on $2,000 court bond.
Baltimore	Perfecto Conrojoy Tanno	1,000	No change
Chicago	Vincent Andtulis	500	Detained 10/22/50; released 11/7/50 $1,000 court bond.
	Moses Resnikoff	5,000	Detained 10/22/50; released 11/10/50 $5,000 court bond.
	Joseph Stiegerwald	1,000	No change
	Frank Buerklin	1,000	No change
	Philip Israel Hauser	1,000	No change
	Peter Kushnir	1,000	Detained 10/25/50; released 11/10/50 $1,000 court bond.
	Fred Lishota	Own recognizance	Detained 10/26/50; released 11/10/50 $1,000 court bond.
	Josip Ruic	500	No change
	Joseph Weber		
	Antoniette Siuba	1,000	No change
	Henrich Stanislaw Nawroicki	1,000	No change
	Peter Falkowski	500	No change
	Charles Rowaldt	Conditional parole	No change
	Otto Skog	500	No change
	Peter John Warhol	1,000	Detained 10/22/50; released 11/2/50 $2,500 court bond.
	Carl Robert Newstrom	Conditional parole	No change
	Knute Elner Heikkinen	5,000	Detained 10/23/50; released 1/15/51 on $2,500 court bond.

Immigration district	Subject	Bail or detention status—9/23/50	Change in such status after 9/23/50
	John Hilty	1,000	Detained 11/2/50; released 11/17/50 on $1,000 court bond.
	Nick Stess	1,000	Detained 11/2/50; released 11/17/50 on $1,000 court bond.
	Sergius Prus	1,000	No change
	Carl Sklar	1,000	Detained 10/22/50; released 11/10/50 on $1,000 court bond.
New York	Alexander Bittelman	500	10/23/50 detained; 11/17/50, $5,000 court bond
	Frank Borich	5,000	10/22/50 detained; reapprehended and again released 12/6/50, $5,000 court bond
	Willie Ernest Bush	2,000	10/23/50 detained; 11/17/50, $2,000 court bond
	August Cohn	1,000	None
	Dean Benedetto	500	None
	Robert E. Dickhoff	Recognizance	3/15/51 paroled
	Sarah Disend	2,000	8/24/51, $2,000 bond
	Andrew Dmytryshyn	5,000	10/23/50 detained; 11/17/50, $5,000 court bond
	Charles Doyle	3,500	Oct./50 detained; released 12/29/50 $5,000 court bond.
	Harry Egger	Recognizance	8/1/51, conditional parole
	Frank Fleer	2,000	None
	Major Giebs	1,000	None
	James Gill	2,000	None
	Ida Gottesman	1,000	None
	Nicolaos Kaloudis	Recognizance	10/25/50 detained; 12/14/50, $1,000 court bond
	Gabrielle Kleim	500	None

Meyer Klig	Recognizance	10/26/50 detained; released
Charles Kratochvil		11/17/50, $5,000 court bond
Earnest Langnickel	Recognizance	3/19/51, conditional parole
Rose Lightcap	Recognizance	None
	5,000	10/24/50 detained; released
Alexander Meltzer		11/17/50 $5,000 court bond
Samson Milgrom	1,000	None
	5,000	8/2/51 detained; 8/6/51, $5,000 bond
Michael Obermeier		None
Carl Einar Paivio, Sam Fields, or Charles Nelson	1,000	11/1/50 detained; released
	5,000	11/17/50, $5,000 court bond
Sam Paul or Paulos		None
Irving Potash	2,000	None
Benny Saltzman	3,500	None
Jack Schneider	500	10/25/50 detained; 11/17/50, $1,000 court bond
	Recognizance	11/1/50 detained; 11/17/50, $5,000 court bond
Claudia Scholnick	5,000	None shown
Carl Skoglund	Released on bond, amount not shown	None shown
Jacob Abraham Stachel	3,500	6/11/51, supervised parole
Dimitri Startzeff	Recognizance	None
Anna Taffler nee Devine	500	None
Sol Taffler	500	Parole
Morris Taft or Tapuach	Recognizance	10/26/50 detained; 11/17/50, $4,000 court bond
Manuel Tarazona	4,000	8/1/51, conditional parole
Frank Vandam	Recognizance	6/5/51, $1,000 bond
Wilhelm Weber	Recognizance	None
John Williamson	3,500	10/23/50 detained; 11/17/50, $5,000 court bond
Harry Yaris	5,000	

Immigration district	Subject	Bail or detention status—9/23/50	Change in such status after 9/23/50
	Rifke Yaschewsky or Gannett	5,000	11/1/50, detained; 11/17/50, $5,000 court bond
	George Saliagopoulas or Kuluras or Harry Kelly	Paroled	9/6/51 detained

(2) List of pending deportation cases where warrant of arrest involving charges under the Act of October 16, 1918, as amended, issued after September 23, 1950, and present detention or bond status of each

Immigration District	Subject	Bail or detention status
Philadelphia	Erich Haak	$2,000
	Michail Philippou	4,000
	Adam John Biling	4,000
	Heinz Langerhans	
	Sol Hertz	5,000
	Aron Mungiu	2,000
	Norman Wm. Rodgers	In custody since service of warrant of arrest 8/22/51
	Augusto Ricompensato	Conditional parole
	Michael Zagorodny (Gordon)	In custody U. S. Penitentiary, Lewisburg, Pa. serving criminal sentence
	Annie Lee James	2,000
	Czeslaw Henry Wyczolkowski	500
	Charles Spivack	Conditional parole since 12/27/50
Miami	Rafael Mario Nicasio Rangel & Rodriquez	1,000
	Onelia Catalina Triana Y Pages de Rangel	Conditionally paroled
	Isaac Elias Saporta	2,000
	Helge Nicaoli Langfeldt	Detained since 11/6/51 in default $4,000 bond
	Edunia Ramirez de Carrion Mirabel	Warrant issued 11/14/51 provides for release $2,000 bond; not apprehended
	Benjamin Saul	Conditional parole

Seattle	Michael Feuersinger	Conditional parole
	Pedro Cabornay	1,000
	Constancio Cargado	1,000
	Doreen Masterson	Conditional parole
	Ramon Tancioco	1,000
	Joseph Otto Schmitt	1,000
	Donald Roy Van Sickle	Conditional parole
	Jean Jules Fogerouses	1,000
	Alfred Goetz	Serving sentence in U. S. penitentiary, McNeil Island, Washington
San Francisco	Giovanne Vidolin	5,000
	Ida Miller nee Rosnick	2,500
	Jacob Miller	2,500
	Francesco Fiori	Conditional parole
	John Charles Dubeta	Conditional parole
	Guido Marchelo Trento	Conditional parole
	Ludmilla S. Mihailova	Detained without bond
Los Angeles	Karekin Andekian	2,000
	Nedjelko Bakovich	Conditional parole
	Francesco Guiseppé Bonetti	2,000
	Juan Lopez Chavez	1,000
	Frank Leslie Craig	2,000
	Justo Cruz-Solorio	Detained without bond
	Fanny Dell	2,000
	Yetta Dickens	2,000
	Agustin Exparza-Flirian Floriana	Detained without bond
	Elias Vasquez Espinoza	1,000
	Oscar Charles Fewkes	Conditional parole
	Blanche Fradkin	2,000
	David Fradkin	2,000
	Caroline Galalian	1,000
	Bessie Geiser	Detained without bail
	Andres Gonzales-Hernandez	Detained without bail
	Joso Graovac	2,000

Immigration District	Subject	Bail or detention status
	Aaron Grosberg	4,000
	Verna Lessin	2,000
	Pedro Lopez-Munoz	Detained without bail
	Anastacio Mendez de la Rosa	Conditional parole
	Haruntun Minookian Minasian	2,000
	Abraham Roast	4,000
	Morris Rubin	2,000
	Rachel Rubin	4,000
	William Rudick	Conditional parole
	Halldora Kristin Sigurdson	2,000
	Rose Spector	5,000
	Yasuo Takemoto	Detained without bail
	David Tartakoff	Conditional parole
	Daniel Vega	2,000
	Arsin Yerganian	Detained without bail
Honolulu	Simein Ligsay Bagasol	Detained 1/8/51; released 1/15/51 on $1,000 bond, following court action.
	Pedro Afren Racela	Conditional parole
Buffalo	Thomas Vincent	2,000
	Alfred Favorito	
	William Kalman	5,000
	George Vasiloff	2,000
Detroit	Paul Baltich	1,000
	Pearl Demery	Conditional parole
	Albert Joseph des Rosiers	1,000
	Joe Dumas Dujmovich	4,000
	Mary Guy	500
	Olimpiu Hanes	2,000; bond canceled and released $2,000 court bond
	George Jasinski	1,000
	Wasyl Kardasz	2,000
	Nicholas Kozar	1,000

	Anna Kruchen	1,000
	Julius Kudela	1,000
	Kay Ohanesian	1,000
	Jacob A. Rusak	2,000
	Theresa Szerdi	2,000
	Theodore Thompson	1,000
	Afansy Zaytsef	2,000
	Otto Gustav Zimmermann	Conditional parole
Baltimore	Constantine Ionescu	1,000
New York	William Abrams	2,000
	@ Wolfe Abrams	5,000
	or William Mayersos	
	Francesco Ammirati	
	Paul Cinat	1,000
	Harry Goldstin	2,000
	Benitez Gonzalez	2,000
	Anna Hafner	2,000
	Paul Juditz	2,000
	Julian Krasowski	Detained; released 3/9/51 $5,000 court bond
	Morris Lerner	5,000
	Michael Nukk	2,000
	Jean Schultz Rosenthal	5,000
	Erwin Otto Schroth	Paroled
	Norman Tallentire	2,000
	Annie Powers	3,500
	Martin Young @ Leon Platt	Detained
	Alec Cyril Burleigh	Detained
	Dimitri Vera Kamper @ Dick Kamper	2,000

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